

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

**JOHN MCBREARTY;
CARL MCBREARTY; and
NINA MCBREARTY**

v.

**DELAWARE COUNTY SHERIFFS
DEPARTMENT; NORWOOD BOROUGH
POLICE DEPARTMENT; DELAWARE
COUNTY; and MEDIA BOROUGH**

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CIVIL ACTION NO: 02-4553

RESPONSE TO NORWOOD DISMISSAL MOTION

1) In Norwood's dismissal motion, memorandum of law of defendant, on page 11, they state, he (officer Manning, even though there was two Norwood officers present they only mention one) felt there was probable cause, "facts and circumstances within the officer's knowledge sufficient to warrant a person believing" that the eviction should occur.

2) On or about 8:00 PM 3/13/02, eviction hour, many officers arrived at 649 to evict Carl and I. The first order of business for them was to get my gun collection. After realizing that most of the guns were inoperable, the tension was removed. The officers new first hand that Carl and I were not maniacs.

3) The conversations between Carl, me and the officers, at that point, moments after arrival, became lighthearted. It stayed that way for most of the entire event.

4) The first conversations were about the gun collection, then when they decided to take the knife collection, the conversations turned to the knife collection. These conversations were going on in the police gathering that was in our home. All the officers were in the conversations.

5) After that the conversation turned to the courthouse and dealing with them in a divorce dispute, and how men don't stand a chance to get a fair judgment. Then one of the officers started talking about lawyers, and why there wasn't a lawyer representing me in the divorce. They all knew that I was not represented by a lawyer in the courthouse. Several of them made comments about the Delaware county courthouse and not having a lawyer, and how you don't stand a chance with a lawyer let alone without one. Overall consensus was, get a lawyer to help you. That was the conversation at the moment. The officers showed sympathy of our situation.

6) Then the conversation turned to the protest issue, and the eviction issue that was directly tied to it. In that part of the conversation I said to Carl, " looks like I'll be sleeping on the courthouse front lawn sooner than I thought." Then officer unhappy (I can't read his signature) barked back. "You think this is funny. John, if I catch you sleeping on the courthouse front lawn I'm arresting you, no warning, you'll get arrested." The malice of the situation, was the conversation, everyone there was totally aware of exactly what was going on, we joked about the bomb allegations.

7) For any of the officers to say that they believed the eviction should occur, is simply not true. Everyone was talking about the eviction action they were carrying out. Most of the officers were helpful to assist Carl and I with getting some things out of the house.

8) Nina was one of the conversation topics. When I said I wanted a key to give to Nina, so she could get her things, officer unhappy refused. Several of the officers who checked the house told officer unhappy that it was obvious which room was Nina's and that Nina did live there. Officer unhappy replied, that's too bad for Nina. More malice?

9) The Norwood officers, and all the other officers there, knew exactly what was going on. They all chose to proceed with the violation, rather than trying to stop it. They are all involved. They all chose to not protect Carl, Nina , and myself.

Respectfully,

John McBrearty